

State of Washington  
DRAFT  
REPORT OF EXAMINATION  
FOR WATER RIGHT APPLICATION

File NR G4-35575  
WR Doc ID 5355562

PRIORITY DATE  
7/12/2012

WATER RIGHT NUMBER  
G4-35575P

MAILING ADDRESS  
KITTITAS COUNTY WATER DISTRICT #5  
PO BOX 262  
108 E 2ND STREET  
CLE ELUM, WA 98922-0262

SITE ADDRESS (IF DIFFERENT)  
KITTITAS COUNTY FIRE DISTRICT #7  
PO BOX 777  
SOUTH CLE ELUM, WA 98922

Quantity Authorized for Withdrawal or Diversion

WITHDRAWAL OR DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
50	GPM	1.176

Purpose

PURPOSE	WITHDRAWAL OR DIVERSION RATE		ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE	ADDITIVE	NON-ADDITIVE	
Municipal	50		1.176		01/01 - 12/31

IRRIGATED ACRES		PUBLIC WATER SYSTEM INFORMATION	
ADDITIVE	NON-ADDITIVE	WATER SYSTEM ID	HEALTH-APPROVED CONNECTIONS
0	0	42704	340

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
KITTITAS	GROUNDWATER		39-UPPER YAKIMA

SOURCE FACILITY/DEVICE	PARCEL ID	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
1 Well		AFG654	20N	14E	27	NENE	N. 47.20139°	W. -121.06998°

Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

485036

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

A portion of the service area of Kittitas County Water District No. 5—specifically the Kittitas County Fire Station No. 73 within the NE¼SE¼ of Section 26, lying north of I-90 on Parcel No. 485036 in T. 20 N., R. 14 E.W.M. in Kittitas County, WA.



### Proposed Works

The existing well was drilled in 2000 to a completed depth of 406 feet with a 12" casing. The subject water will be delivered through this well, which is owned by Kittitas County Water District No. 5 (KCWD5) via a 20-horsepower Berkeley submersible pump (set at 300-foot level), through existing and new water-main extension lines, to provide for 8-inch PVC C900 Class 200 pressure rating and fire hydrant service of 6-inch PVC C900 Class 200. The well sits inside an out-building known as the "Treatment Plant" and is capable of pumping water at 140 gallons per minute through two 1,000-gallon pressure tanks containing a 1:1 ratio of water and iron oxide mix.

This well is also temporarily authorized under Ground Water Change Authorization No. CG4-29033.

Domestic wastewater will be discharged to an individual or group on-site system, pursuant to the *Declaration of Covenant* signed July 24, 2012, by the commissioner for the Kittitas County Fire District No. 7.

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	November 25, 2018	November 25, 2020

In determining the above Development Schedule, that is the timeframe for the applicant to implement the authorized use of water, reasonable and just time was allowed under the existing conditions to begin and to complete construction of the project. Sufficient time is also awarded in order for the applicant to collect water-use data and to put the water to full beneficial use. The **Development Schedule** above reflects consideration of the potential cost and magnitude of the project and the engineering and physical features potentially to be encountered.

### Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually (Jan 31)
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm)



**A. Wells, Well Logs and Well Construction Standards**

1. The subject well and the right to use water from it is restricted to and authorized for the lower, confined aquifer.
2. All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction." Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.
3. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.
4. Installation and maintenance of an access port as described in WAC 173-160- 291(3) is required.
5. In addition to the required access port, the applicant shall install and maintain, in operating condition, an airline and pressure gage. The pressure gage shall be equipped with a standard tire valve and placed in a location accessible to Department of Ecology personnel. The airline shall extend from land surface to the top of the pump bowls and the total airline length shall be reported to the Department of Ecology upon completion of the pump system.

**B. Measurements, Monitoring, Metering and Reporting**

1. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use," WAC 173-173.
2. Quarterly water level measurements shall be taken on the well authorized in this permit, and submitted to Ecology annually to Ecology by January 31st of each calendar year along with source metering data. For the quarterly data collected, the permit holder shall submit the collection date, name of person taking the measurement, water level reading in feet, either above or below ground surface, well status (e.g., pumping or off), and instantaneous flow rate (gpm) if the well was pumping during the measurement. In the future, Ecology may require a greater monitoring frequency or additional monitoring locations.
3. Water use shall be recorded weekly. The maximum monthly rate of withdrawal and the monthly total volume shall be submitted to Ecology by January 31st of each calendar year. Ecology is requiring submittal of monthly meter readings to collect seasonal information for water resource planning, management, and compliance.
4. Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Central Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Central Regional Office for forms to submit your water use data.
5. WAC 173-173 describes the requirements for data accuracy, device installation, and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

**C. Water Level Measurements**

1. In order to maintain a sustainable supply of water and ensure that your water source is not impaired by future withdrawals, static water levels **should** be measured and recorded



monthly using a consistent methodology. Static water level is defined as the water level in a well when no pumping is occurring and the water level has fully recovered from previous pumping. Static water level data should include the following elements:

- Unique Well ID Number.
- Measurement date and time.
- Measurement method (air line, electric tape, pressure transducer, etc.).
- Measurement accuracy (to nearest foot, tenth of foot, etc.).
- Description of the measuring point (top of casing, sounding tube, etc.).
- Measuring point elevation above or below land surface to the nearest 0.1 foot.
- Land surface elevation at the well head to the nearest foot.
- Static water level below measuring point to the nearest 0.1 foot.

**D. Municipal Supply and Public Water Systems**

1. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, the place of use of this water right reverts to the service area described in that document. If the criteria in RCW 90.03.386(2) are not met and no Water System Plan/Small Water System Management Program has been approved after September 9, 2003, the place of use reverts to the last place of use described by the Department of Ecology in a water right authorization.

**E. Department of Health Requirements**

1. Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at DOH/Division of Environmental Health, 16201 E. Indiana Avenue, Suite 1500, Spokane Valley, WA 99216, (509) 329-2100.

**F. Easement and Right-of-Way**

1. The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

**G. Water Use Efficiency**

1. The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

**H. Proof of Appropriation**

1. The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s),



system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

**I. Schedule and Inspections**

1. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

**J. General Conditions**

1. This authorization shall in no way excuse the permittee from compliance with any federal, state, or local statutes, ordinances, permits, or regulations including those required and administered by other programs of the Department of Ecology.
2. You (applicant) will pay the sum of \$162.36, which represents a proportionate amount of the payment due and owing to the United States for storage and deliver of water under Paragraph 15(a) of Water Storage and Exchange Contract No. 09XX101700, between the Bureau of Reclamation and the State of Washington Department of Ecology, Yakima Project, Washington, dated January 29, 2009.<sup>1</sup> The consumptive use of 0.205 acre-feet from September 1 through March 1 is subject to the terms and conditions in the Water Storage and Exchange Contract No. 09XX101700.
3. You (applicant) will record with the Kittitas County Auditor a property covenant as required under WAC 173-539A-050 that restricts or prohibits trees or shrubs over a septic drain field on Parcel No. 485036.
4. You (applicant) will record with the Kittitas County Auditor an appropriate conveyance instrument under which the applicant obtains an interest in Trust Water Right No. CS4-05259CTCL@2sb7 to offset consumptive use.

**Findings of Facts**

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. G4-35575, subject to existing rights and the provisions specified above.

**YOUR RIGHT TO APPEAL**

You have a right to appeal this Decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

<sup>1</sup> "Long-Term Water Storage and Exchange Agreement between the U.S. and the State of Washington, Department of Ecology" (Contract No. 09XX101700), [http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/exchangecontract\\_012909.pdf](http://www.ecy.wa.gov/programs/wr/cro/images/pdfs/exchangecontract_012909.pdf), access on August 22, 2012.



To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

#### ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia WA 98504-0903

Signed at Yakima, Washington, this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

\_\_\_\_\_  
Mark Kemner, LHG, Section Manager  
Water Resources Program/CRO

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>



## BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number G4-35575.

### *Priority Processing*

This application is being priority processed because it qualified under the criteria under which an application may be processed prior to competing applications (WAC 173-152).

**Table 1:** Summary of "Originally-Requested" Water Right

<b>Applicant Name</b>	Kittitas County Water District No. 5
<b>Date of Application</b>	7/12/2012
<b>Place of Use</b>	Service area of Kittitas County Water District No. 5, which includes KCFD No. 7 Fire Station No. 73 (Parcel No. 485036) within the NE¼SE¼ of Section 26, T. 20 N., R. 14 E.W.M., Kittitas County.

<b>County</b>	<b>Waterbody</b>	<b>Tributary To</b>	<b>WRIA</b>
Kittitas	Groundwater		39-Upper Yakima

<b>Purpose</b>	<b>Rate</b>	<b>Unit</b>	<b>Ac-ft/yr</b>	<b>Begin Season</b>	<b>End Season</b>
Municipal	50	GPM	1.246	01/01	12/31

<b>Source Name</b>	<b>Parcel</b>	<b>Well Tag</b>	<b>Twp</b>	<b>Rng</b>	<b>Sec</b>	<b>QQ Q</b>	<b>Latitude</b>	<b>Longitude</b>
Well		AFG-654	20N	14E	26	SE SW	N/A	N/A

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: NAD83/WGS84.

On January 10, 2013, the representative for the applicant amended the original application to change the location of the proposed source and decrease the annual water duty. The corrected parameters follow:

**Table 2:** Summary of "Amended Requested" Water Right

<b>Date of Amendment</b>	1/10/2013
<b>Amended Point of Withdrawal</b>	The proposed well is located within the NE¼NE¼ in Section 27, T. 20 N., R. 14 E.W.M., (Parcel No. 131334.)
<b>Amended Water Duty</b>	1.176 af/yr total use

### Legal Requirements for Approval of Appropriation of Water

RCWs 90.03 and 90.44 authorize the appropriation of public water for beneficial use and describe the process for obtaining water rights. Laws governing the water right permitting process are contained in RCW 90.03.250 through 90.03.340 and RCW 90.44.050. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be available.
- There must be no impairment of existing rights.
- The water use must be defined as beneficial.
- The water use must not be detrimental to the public interest.



### *Public Notice*

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks in a newspaper of general circulation in the county or counties where the water is to be stored, diverted, and used. Notice of this application was published in the Northern Kittitas County Tribune on September 20 and 27, 2012. No comments or protests were received by Ecology during the 30-day comment period.

### *Consultation with the Department of Fish and Wildlife*

Ecology must give notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. Notice was officially provided on March 4, 2013, by Candis Graff and John Kirk during a Yakima Water Transfer Working Group (WTWG) meeting. A positive reaction was communicated in response to this proposal.

### *State Environmental Policy Act (SEPA)*

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions is met:

- (a) It is a surface water right application for more than 1 cubic-foot per second (cfs), unless that project is for agricultural irrigation, in which case the threshold is increased to 50-cfs, so long as that irrigation project will not receive public subsidies.
- (b) It is a groundwater right application for more than 2,250 gallons per minute.
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above.
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA).
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

## **INVESTIGATION**

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### *Site Visit*

A site visit was performed by Ecology employees Candis Graff and John Kirk on January 28, 2013. Dave Anderson, Lieutenant Kittitas County Fire Rescue and Water System Operator KCWD#7 and Fred Marion, fire department member and a KCWD5 Commissioner, were also present. Global Positioning Satellite (GPS) coordinates were taken of the location of the well head. Points were also taken of the permit-exempt well at the Fire Station 73, which is to be used as emergency, backup use or ½ acre of irrigation. Area geology was also noted.



## Proposed Use and Basis of Water Demand

RCW 90.03.386(3) requires a municipal water supplier to apply cost-effective water-conservation measures as part of its water system planning. The water supplier must also evaluate the effects of delaying the use of inchoate water rights before it may increase use of those inchoate rights.

RCW 90.03.320 requires Ecology to consider the public water supplier's use of conserved water when establishing a surface or ground water right construction schedule.

According to the December 2009 Water System Design Manual<sup>2</sup> (WSDM) by the Department of Health (DOH), a reasonable level for a Maximum Daily Demand (MDD) for residential connections for internal use can be established at 350 gallons per day (gpd)/Equivalent Residential Unit (ERU). While the proposed use for this proposal is for full-time employees and fire fighters, not residential use, the MDD values Ecology set are still set at 350 gpd/ERU, which is consistent with the WSDM.

Under WAC 173-539A, 30% domestic in-house use on a septic system is assumed to be consumptively used.

Total monthly and annual use at full build-out of the project were calculated based on the proposed 3-ERUs, DOH's MDD, and the assumptions found in WAC 173-539A. The calculated consumptive use and total calculation considered factors specified in WAC 173-539A and are summarized in **Table 3** below.

**Table 3: \*Estimated Total and Consumptive Use**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Total Use (ac-ft)	.100	.090	.100	.097	.100	.097	.100	.100	.097	.100	.097	.100	1.176
Total Consumptive (ac-ft)	.030	.027	.030	.029	.030	.029	.030	.030	.029	.030	.029	.030	0.353

\*Quantities are rounded.

## Other Rights Appurtenant to the Place of Use

Fifteen surface water rights and 1 permit-exempt ground water use are appurtenant to the proposed place-of-use (POU). They are presented below in **Table 4**.

**Table 4: Other Rights Appurtenant to POU**

Control #	Claim #	Source	Purpose	Place-of-Use	(Qa)
S4-83021-J	02294	Little Creek	IR (50), ST	N½SE¼ Sec. 26, T. 20N., R. 14E	100+0.5
S4-84641-J	02276	Bumping R.	SR	Entire Yakima Basin	38,768
S4-84638-J	02276	Yakima R.	SR	Entire Yakima Basin	166,846
S4-84639-J	02276	Kachees R.	SR	Entire Yakima Basin	250,261
S4-84640-J	02276	Yakima R.	SR	Entire Yakima Basin	446,610
S4-84642-J	02276	Tieton R.	SR	Entire Yakima Basin	216,850
S4-84643-J	02276	Tieton R.	SR	Entire Yakima Basin	5,300

<sup>2</sup> Department of Health, "Water System Design Manual," Olympia, Wa., 2009, pp. 27-32, [www.doh.wa.gov/chp/dw/Publications/331-123.pdf](http://www.doh.wa.gov/chp/dw/Publications/331-123.pdf), accessed on January 8, 2013.



Control #	Claim #	Source	Purpose	Place-of-Use	(Qa)
S4-84644-J	02276	Yakima R.	SR	Entire Yakima Basin	472
S4-84645-J	02276	Tieton R.	SR	Entire Yakima Basin	2
S4-84646-J	02276	Yakima R.	SR	Entire Yakima Basin	56
S4-84647-J	02276	Yakima R.	SR	Entire Yakima Basin	60
S4-84648-J	02276	Yakima R.	SR	Entire Yakima Basin	408
S4-84649-J	02276	Tieton R.	SR	Entire Yakima Basin	1,265
S4-84347-J	00465	Yakima R.	IR (59,122.29), DG, ST, PO	KRD Boundaries	336,000
S4-84348-J	00465	Yakima R.	PO	KRD Boundaries	25,000
N/A	N/A	Exempt Well	Emergency Fire	KCFD7 (Parcel 485036)	5.6

DG=Domestic General or Incidental Irrigation, IR=Irrigation, PO=Power Generation, ST=Stock water, SR=Filling & Release of Stored Water.

Surface Water Certificate No. S4-83021-J uses water for private irrigation and stock watering purposes.

Surface Water Certificate Nos. S4-84347-J and S4-84348-J, which are owned by Kittitas Reclamation District, provide water for purposes of irrigation, incidental domestic, stock watering, and power generation.

One ground water permit-exempt well is located on the proposed place of use for this application. The well is shallow and not adequate for this proposed use and will likely be used for emergency fire suppression and/or incidental lawn and garden of up to ½ acre in size. An exempt well can be used for stock water, or for the watering of a lawn or noncommercial garden not exceeding ½ acre in area or for single or group domestic uses in an amount not exceeding 5,000 gallons per day (gpd) or for an industrial purpose not exceeding 5,000 gpd, to the extent that it is regularly used beneficially.

All other surface water rights referenced above in Table 4 are owned by U.S. Bureau of Reclamation and are authorized to use water for storage purposes.

**Table 5: Other Water Rights within 0.5-Mile Radius of Point-of Withdrawal**

Control No.	Document Type	Purpose	Qa	Source
G4-071994CL	Claim	DG	1.0	1 well
G4-128968CL	Claim	DG	750.0 (20)	2 wells
G4-128969CL	Claim	DG, IR	750.0 (20)	2 wells

**Note:** These lists do not address validity of each documented certificate, permit, or claim.

Claim No. G4-071994CL uses water for one residence.



Claim Nos. G4-128968CL and G4-128969CL indicate historical use of water far lower than the “requested” amount for a large resort and golf course, which renders the validity of these claims as questionable.<sup>3</sup>

**Table 6: Other Water Rights Owned by KCWD5**

Control No.	Document Type	Purpose	Qa	Source
G4-29033 T	Temporary Permit	DM	150	1 Well
CG4-29033	Change/ROE	DM	150	1 Well
7676-A	Certificate	DM	10	Infiltration Trench

Ground Water Temporary Permit No. G4-29033T was issued in 1986 to provide a continuous community domestic backup for 300 units with a well and infiltration trench. This temporary permit is provisioned to “. . . remain in effect until such time that a final decision is made as to the disposition of Application No. G4-29033.”

The subsequent Change/ROE, Ground Water Change Authorization No. CG4-29033 authorizes multiple domestic use of up to 300 units with a deep well. In Ecology’s modified decision to the Kittitas County Conservancy Board decision, a provision was added which includes the following language: “If, as a result of the cooperative groundwater study, Ecology determines that granting a permit for Application No. G4-29033 is not possible, either because water is not available for appropriation, or because granting such an appropriation would impair existing rights, then Temporary Permit No. G4-29033 will be cancelled.” However, the study conducted for the Lower Kittitas area was not as hydrogeologically comprehensive as previously expected, but Ecology recommends that planning for a future contingency in anticipation of the results from the current Upper Kittitas survey be immediate.

Certificate No. 7676-A authorizes 200 gpm, 10 af/yr for up to 100 recreational lots through the use of an infiltration trench. It should be noted that if the Water District is using any well other than the shallow well authorized on the Certificate, that a change application should be submitted immediately.

### Impairment Considerations

Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water right application may not be approved if it would:

- Interrupt or interfere with the availability of water to an adequately constructed groundwater withdrawal facility of an existing right. An adequately constructed groundwater withdrawal facility is one that (a) is constructed in compliance with well construction requirements and (b) fully penetrates the saturated zone of an aquifer or withdraws water from a reasonable and feasible pumping lift.

<sup>3</sup> The above referenced claims were filed under Claims Registration Act, RCW 90.14. The intent of this act was to document those uses of surface water in existence prior to the adoption of the State Surface Water Code, RCW 90.03, which was adopted in 1917, and those uses of ground water in existence prior to the adoption of the State Ground Water Code, RCW 90.44, which was adopted in 1945. Since each code adoption, the only means of acquiring a water right within the state is by filing for, and receiving, a permit from Ecology or one of its predecessors or by establishing a right under the “exemption” under the Ground Water Code RCW 90.44.050. Ecology recognizes that the final determination of the validity and extent associated with a claim registered in accordance with RCW 90.14 ultimately lies with the Superior Court through the general adjudication process provided for by RCWs 90.03.110 through 90.03.240. Ecology does, however, recognize that water use may be occurring under these claims.



- Interrupt or interfere with the availability of water at the authorized point of diversion of a surface water right. A surface water right conditioned with instream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to or below the instream flow more frequently or for a longer duration than was previously the case.
- Interrupt or interfere with the flow of water allocated by rule, water rights, or court decree to instream flows.
- Degrade the water quality of the source to the point that the water is unsuitable for beneficial use by existing users (e.g., via sea water intrusion).

## **Water Availability**

For water to be available for appropriation, it must be both physically and legally available.

### *Physical Availability*

For water to be physically available for appropriation there must be ground or surface water present in quantities and quality and on a sufficiently frequent basis to provide a reasonably reliable source for the requested beneficial use or uses. In addition, the following factors are considered:

- Volume of water represented by senior water rights, including federal or tribal reserved rights or claims.
- Water right claims registered under RCW 90.14.
- Ground water uses established in accordance with RCW 90.44, including those that are exempt from the requirement to obtain a permit.
- Potential riparian water rights, including non-diversionary stock water.
- Lack of data indicating water usage can also be a consideration in determining water availability, if the department cannot ascertain the extent to which existing rights are consistently utilized and cannot affirmatively find that water is available for further appropriation.

### **Hydrologic/Hydrogeologic Evaluation**

The following hydrologic/hydrogeologic technical excerpts were prepared by John Kirk, licensed hydrogeologist, and seeks to address by way of discussion, analysis, and evaluation, potential for impairment to existing water users. The entire Technical Memorandum can be reviewed upon request.

When considering applications for new groundwater right permits, Ecology has a statutory directive to limit appropriations of groundwater to amounts that will maintain and provide a safe sustaining yield to prior appropriations and to avoid aquifer overdraft (RCW 90.441.130, PCHB No. 94-114). Due to the remote nature of the hydraulic relationship between the confined aquifer and the Yakima River, it is not anticipated that the additional groundwater to be pumped from the aquifer will be replaced by the mitigation water in overlying Yakima River. Consequently, it must be assumed that the water purchased to mitigate eventual surface water impacts will not mitigate the local pumping impact on the aquifer. However, it must be noted that the requested quantity is small at only 1.176 af/yr. This is less than the maximum of 5.6 acre-feet/yr allowed for domestic use under the RCW 90.44.050 exemption statute. Furthermore, the water levels on more recent well reports indicate that there has been little to no change in this area relative to water levels reported on older well reports. This is consistent with the statement from water district officials who report that the flowing pressure at the subject well has not undergone any detectable change since it was drilled in March of 2000. Therefore, it is concluded that authorizing this small quantity of water is unlikely to result in an overdraft condition for the lower aquifer.



The physical availability of ground water must also be considered. The applicant seeks an additional 50-gpm. Ecology's well database currently contains more than a dozen water well reports that represent wells drilled within the general area of the subject well. All of these wells have been constructed to withdraw groundwater from the lower confined sedimentary aquifer. The confined aquifer is generally described in well reports as some combination of sand and gravel, with some occasional clay and silt. Well production reportedly ranges from about 40 gpm to the 200 gpm reported at the subject well. The initial pump test on the well report indicates the well was tested at around 200-gpm with 150 feet of drawdown after 4 hours. The physical availability of water in the quantities requested is not in question.

Based on the hydrogeologic setting, well data, and the simplified water balance, **groundwater is physically available for the project due to the in-basin mitigation offered.**

#### *Legal Availability*

To determine whether water to be legally available for appropriation, the following factors are considered:

- Regional water management plans – which may specifically close certain water bodies to further appropriation.
- Existing rights – which may already appropriate physically available water.
- Fisheries and other instream uses (e.g., recreation and navigation). Instream needs, including instream and base flows set by regulation. Water is not available for out of stream uses where further reducing the flow level of surface water would be detrimental to existing fishery resources.
- The Department may deny an application for a new appropriation in a drainage where adjudicated rights exceed the average low flow supply, even if the prior rights are not presently being exercised. Water would not become available for appropriation until existing rights are relinquished for non-use by state proceedings.

Legal availability, however, is ultimately a permitting/management decision that is, in part, based on the above information.

#### *Water Duty*

In planning a community development, source capacity must be recognized. The total daily source capacity, in conjunction with storage designed to accommodate peak use periods must be able to reliably provide sufficient water to meet the MDD for the water system. Reliability and sustainability must also be considered when planning for a water system. Lacking metered water use records, Ecology referred to the artesian conditions of the well and the pump test performed in 2000, along with information provided during the site visit by Dave Anderson, Lieutenant Kittitas County Fire Rescue and Water System Operator KCWD#7 to obtain instantaneous water duty.

#### *Beneficial Use*

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The proposed use of water for municipal purpose is defined in statute as a beneficial use (RCW 90.54.020(1)).



## Public Interest Considerations

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When investigating a water right application, Ecology is required to consider whether the proposal is detrimental to the public interest. Ecology must consider how the proposal will affect an array of factors such as wildlife habitat, recreation, water quality, and human health. The environmental resources and other natural values associated with the area were taken into account during the consideration of this application.

### *Consideration of Protests and Comments*

No protests were filed against this application.

## Conclusions

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In conclusion,

- Water is physically available at the quantities sufficient to meet project demand. When combined with the proposed mitigation measures, water is legally available under the provisions of WAC 173-539A.
- RCW 90.54.020 recognizes domestic and irrigation uses as beneficial uses of water.
- Approval of the proposed appropriation will not result in impairment of existing water rights.
- Approval of the proposed appropriation is not detrimental to the public interest.

## RECOMMENDATIONS

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Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above

### Purpose of Use and Authorized Quantities

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The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 50 gallons per minute.
- 1.176 acre-feet per year.
- Continuous municipal supply for the Kittitas County Fire Station No. 73.

### Point of Withdrawal

One well (AFG-654) approximately 1300 feet south and 165 feet west from the northeast corner of Section 27, within the NE¼NE¼, Section 27, Township 20 North, Range 14 E.W.M.



**Place of Use**

As described on Page 2 of this Report of Examination.

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*Report Writer*

*Date*

*If you need this publication in an alternate format, please call Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341*

**Selected References**

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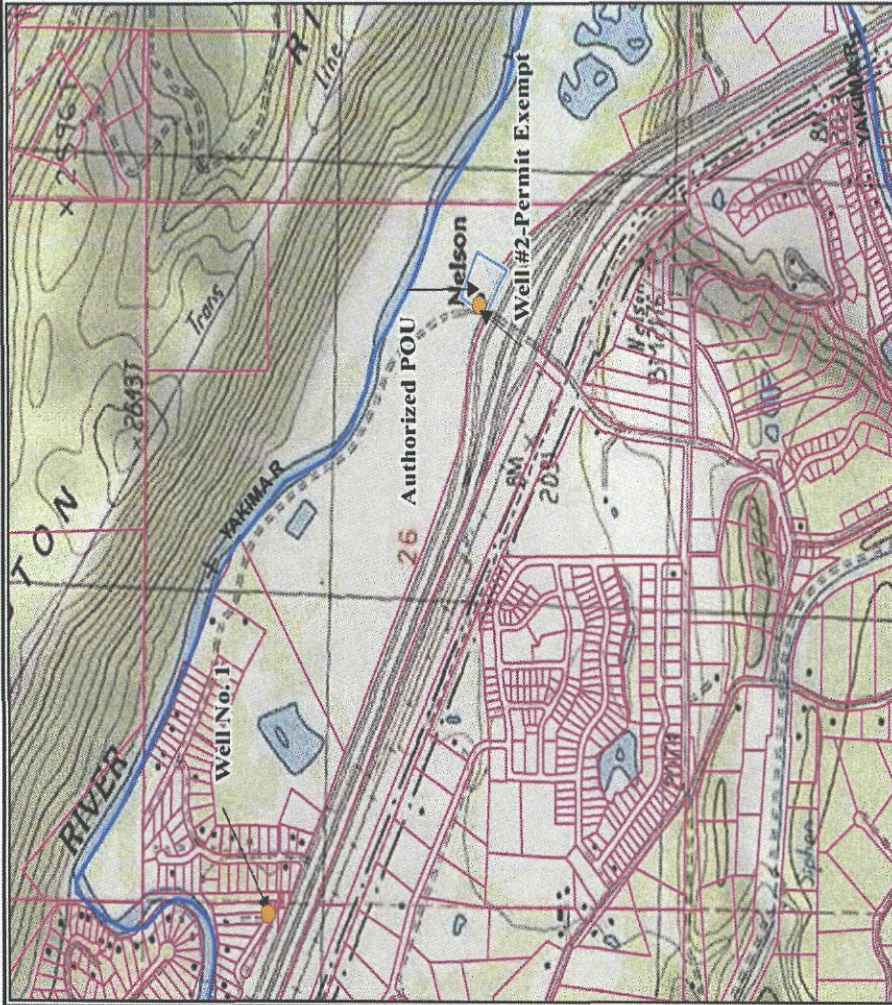
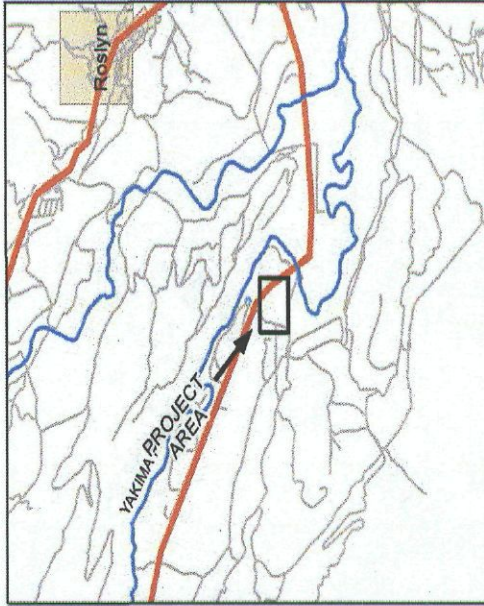
**Barwin, Robert F.2002.** Modification Order for Application to Change Water Right Permit No. G4-29033.

DRAFT



# ATTACHMENT 1

KITTITAS COUNTY WATER DISTRICT NO. 5  
G4-35575  
T20N/R14E  
WRIA 39 - Kittitas County



## Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.

0 550 1,100 2,200 3,300 4,400 Feet

Basemap - ESRI US Topo Map

Map Date: 2/20/2013

DEPARTMENT OF  
ECOLOGY

REPORT OF EXAMINATION